

AMENDED IN SENATE MAY 1, 2002

AMENDED IN SENATE APRIL 15, 2002

SENATE BILL

No. 1526

**Introduced by Senator Romero
(Coauthor: Senator Soto)**

February 20, 2002

An act to add Section 12812.7 to the Government Code, to amend Sections 25174, 25174.1, 25174.2, and 25174.6 of, and to add Sections 25174.8 and 25174.10 to, the Health and Safety Code, ~~to amend Sections 40194, 40201, 40507, 44016, and to amend Sections 40507 and 48000 of, and to add Sections 40004, 40005, 40107, 40117, 40512, 40513, 41781.4, 41783.2, and 48001.5 to, and to add Article 2.3 (commencing with Section 48010) to Chapter 2 of Part 7 of Division 3 of, the Public Resources Code, and to amend Section 43151 of the Revenue and Taxation Code, relating to waste.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1526, as amended, Romero. Waste: out-of-state hazardous waste disposal: zero waste goal: conversion technology: out-of-state solid waste disposal.

(1) Existing law requires the California Environmental Protection Agency, using existing resources and in consultation with other relevant agencies in state and local government, to establish an environmental technologies clearinghouse to maintain information on California-based environmental technology companies and information on funding sources for environmental technology endeavors and to make this information available to interested parties, among other things.

This bill would require the agency to convene an Interagency Conversion Technologies and Biomass Task Force ~~for the purpose of coordinating state agency activities related to the development and use in the state of conversion technologies for the production of energy, alternative fuels, and other products~~ and would require the task force to submit a report, by July 1, 2004, to the Governor and the Legislature regarding conversion technologies.

(2) Existing law requires each person who disposes of hazardous waste in this state to pay a fee for disposal of that waste to land, based on the type of waste placed in a disposal site, in accordance with a specified procedure for determining these fees. Each operator of an authorized hazardous waste facility at which hazardous wastes are disposed is required to collect the fee from persons submitting hazardous waste for disposal and transmit the fee to the State Board of Equalization (hereafter the state board). The state board, in turn, is required to deposit the fees in the Hazardous Waste Control Account, for expenditure by the Department of Toxic Substances Control, upon appropriation. *A violation of any requirement of the hazardous waste control law is a crime.*

This bill would impose a fee upon each person who generates hazardous waste in this state and submits or arranges for the submittal of that hazardous waste for disposal outside of this state. The fee would be equal to 80% of the fee that would have been charged under existing law if the waste had been submitted for disposal in the state, subject to certain limitations. The generator of the waste would be required to transmit the fees to the state board, and that board would be required to deposit the fees in the Hazardous Waste Control Account. The bill would authorize the department to expend those fee revenues only for reimbursing state and local agencies for certain costs related to regulating the waste subject to that fee. *Since a failure to pay the fee would be a crime, the bill would impose a state-mandated local program by creating a new crime.*

The bill would establish the Electronic Waste Management Grant, Loan, and Loan Guarantee Account, in the General Fund. The money in the account would be available, upon appropriation, for expenditure by the department solely for the purposes of establishing an Electronic Waste Management Grant, Loan, and Loan Guarantee Program, that the bill would require the department to establish on or before January 1, 2004, to provide financial assistance to local governments and nonprofit organizations to implement innovative methods of handling,



reusing, remanufacturing, and recycling discarded hazardous electronics.

(3) Existing law, the California Integrated Waste Management Act of 1989, requires the California Integrated Waste Management Board (hereafter the board) to administer state programs to recycle plastic trash bags, plastic packaging containers, waste tires, newsprint, and other specified materials. The act requires the source reduction and recycling element submitted by cities and counties to the board to meet a 50% diversion requirement.

This bill would declare that zero waste is the goal for the State of California.

~~The bill would require the board to establish a program for the research, demonstration, evaluation, and promotion of technologies for landfills and grant or loan programs for landfill gas to energy and bioreactor landfill projects. The bill would revise certain definitions and reporting requirements in existing law to include conversion as being considered diversion for purposes of the minimum solid waste diversion requirements established under the act, thereby creating a state-mandated local program by imposing new duties upon cities and counties preparing and implementing source reduction and recycling elements~~ *revise the information that the board is required to include in its annual progress report to include market development activities, state agency purchases of recycled products, the zero waste goal, landfill demand, and, commencing with the 2004 annual report, best practices in waste management.*

(4) Existing law requires each operator of a disposal facility, as defined, to pay a fee quarterly to the state board that is based on the amount, by weight or volumetric equivalent, as determined by the board, of all solid waste disposed of at each disposal site. All revenue from the fees, after payment of refunds and administrative costs of collection, is required to be deposited in the Integrated Waste Management Account in the Integrated Waste Management Fund.

This bill would authorize the board, commencing with the 2004–05 fiscal year, to adjust the fee once every 3 years to reflect increases and decreases in the consumer price index. A change in the fee for purposes of reflecting changes in the consumer price index would take effect 6 months or more after the date of approval by the board.

The bill would require each operator of a transfer station, as defined, to pay a fee quarterly to the state board that is based on the amount, by weight or volumetric equivalent, as determined by the board, of all solid

waste processed at the transfer station for disposal at an out-of-state disposal site. The fee would be 80% of the fee that would have been charged under existing law if the solid waste had been disposed of in this state.

(5) The bill would require the board, on or before January 1, 2004, to establish the Diversion Reward Grant Loan and Loan Guarantee Program under which local governments and nonprofit organizations may seek financial assistance for funding innovative methods of increasing diversion. The bill would create the Diversion Reward Grant, Loan, and Loan Guarantee Account in the General Fund, and would authorize the board, upon appropriation in the annual Budget Act, to expend funds in the account to implement and administer the program. The bill would also impose various reporting requirements for the program.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature hereby finds and declares that
2 it is the intent of this act to reimburse the state, including the
3 Department of Toxic Substances Control and local governments,
4 for their costs in regulating the hazardous waste generated in this
5 state that is ultimately disposed of out of state. Furthermore, the
6 amount of the fee imposed upon persons who generate hazardous
7 waste in this state, that is submitted for disposal outside of this
8 state, by subdivision (b) of Section 25174.6 of the Health and
9 Safety Code, is proportional to the costs imposed upon the state
10 and local government in regulating that waste and is authorized to
11 be expended by Section 25174.8 of the Health and Safety Code
12 only for purposes of offsetting those costs. Therefore, the
13 Legislature finds and declares that this fee, in requiring these
14 feepayers to pay their “just share” of the costs of regulating this



hazardous waste, does not violate the Commerce Clause of the United States Constitution.

SEC. 2. Section 12812.7 is added to the Government Code, to read:

12812.7. (a) The Environmental Protection Agency shall convene an Interagency Conversion Technologies and Biomass Task Force for the purpose of coordinating state agency activities related to the development and use in the state of conversion technologies for the production of energy, alternative fuels, and other products. The task force shall have all of the following goals:

(1) Encouraging and supporting the diversion of agricultural, municipal, and forestry biomass residuals to productive uses such as energy, alternative fuels, and other products.

(2) Improving environmental quality.

(3) Proving for local economic development.

(4) Increasing market-based options for the use of biomass and postrecycled solid waste. Task Force.

(b) The task force shall be chaired by the Secretary of the Environmental Protection Agency, or her or his designee, and shall be comprised of appropriate representatives from state agencies, departments, boards, and offices having regulatory authority, oversight, or responsibility for the environment, solid waste, air quality, water quality, energy, or economic development.

(c) On or before July 1, 2004, the task force shall submit a report to the Governor and the Legislature providing recommendations regarding, but not necessarily limited to, all of the following:

(1) Coordination of state agency activities pertaining to conversion technologies and biomass.

(2) Streamlining of permitting processes without lessening environmental or public health and safety standards.

(3) Funding for technology development.

(4) Funding for additional research on lifecycle cost-benefit analyses and technical issues. that includes all of the following information:

(1) The environmental impacts of conversion technologies, and a comparison of those impacts with impacts from incineration and other transformation activities.

(2) The potential of conversion technologies for adversely affecting programs to divert solid waste from landfill disposal

1 *through source reduction, reuse, recycling, and composting*
2 *programs.*

3 *(3) The potential of conversion technologies for using waste*
4 *materials that could otherwise be reduced, reused, recycled, or*
5 *composted.*

6 *(4) The costs of conversion technologies, and a comparison of*
7 *how those costs could instead be used to improve programs to*
8 *divert solid waste from landfill disposal through source reduction,*
9 *reuse, recycling and composting programs, if not used for*
10 *conversion technologies.*

11 SEC. 3. Section 25174 of the Health and Safety Code is
12 amended to read:

13 25174. (a) There is in the General Fund the Hazardous Waste
14 Control Account, which shall be administered by the director. In
15 addition to any other money that may be deposited in the
16 Hazardous Waste Control Account, pursuant to statute, all of the
17 following amounts shall be deposited in the account:

18 (1) The fees collected pursuant to Sections 25174.1, 25205.2,
19 25205.5, 25205.15, and 25205.16, except as required under
20 Section 25174.8.

21 (2) The fees collected pursuant to Section 25187.2, to the
22 extent that those fees are for the oversight of corrective action
23 taken under this chapter.

24 (3) Any interest earned upon the money deposited in the
25 Hazardous Waste Control Account.

26 (4) Any money received from the federal government pursuant
27 to the federal act.

28 (5) Any reimbursements for funds expended from the
29 Hazardous Waste Control Account for services provided by the
30 department pursuant to this chapter, including, but not limited to,
31 the reimbursements required pursuant to Sections 25201.9 and
32 25205.7.

33 (b) The funds deposited in the Hazardous Waste Control
34 Account may be appropriated by the Legislature, for expenditure
35 as follows:

36 (1) To the department for the administration and
37 implementation of this chapter.

38 (2) To the department for allocation to the State Board of
39 Equalization to pay refunds of fees collected pursuant to Sections
40 43051 and 43053 of the Revenue and Taxation Code.



1 (3) To the department for the costs of performance or review of
2 analyses of past, present, or potential environmental public health
3 effects related to toxic substances, including extremely hazardous
4 waste, as defined in Section 25115, and hazardous waste, as
5 defined in Section 25117.

6 (4) (A) To the office of the Attorney General for the support
7 of the Toxic Substance Enforcement Program in the office of the
8 Attorney General, in carrying out the purposes of this chapter.

9 (B) Notwithstanding subdivision (c), expenditures for the
10 purposes of this paragraph shall not be subject to an interagency
11 or interdepartmental agreement.

12 (C) On or before October 1 of each year, the Attorney General
13 shall report to the Legislature on the expenditure of any funds
14 appropriated to the office of the Attorney General for the
15 preceding fiscal year pursuant to this paragraph and subdivision
16 (c) of Section 25173.6. The report shall include all of the
17 following:

18 (i) A description of cases resolved by the office of the Attorney
19 General through settlement or court order, including the monetary
20 benefit to the department and the state.

21 (ii) A description of injunctions or other court orders benefiting
22 the people of the state.

23 (iii) A description of any cases in which the Attorney General's
24 Toxic Substance Enforcement Program is representing the
25 department or the state against claims by defendants or responsible
26 parties.

27 (iv) A description of other pending litigation handled by the
28 Attorney General's Toxic Substance Enforcement Program.

29 (D) Nothing in subparagraph (C) shall require the Attorney
30 General to report on any confidential or investigatory matter.

31 (5) To the department, on and after July 1, 1999, for
32 administration and implementation of Chapter 6.11 (commencing
33 with Section 25404).

34 (c) Except for the appropriation to the office of the Attorney
35 General pursuant to paragraph (4) of subdivision (b), expenditures
36 from the Hazardous Waste Control Account for support of state
37 agencies other than the department shall, upon appropriation by
38 the Legislature to the department, be subject to an interagency or
39 interdepartmental agreement between the department and the state
40 agency receiving the support.

1 (d) The department shall, at the time of the release of the annual
2 Governor's Budget, describe the budgetary amounts proposed to
3 be allocated to the State Board of Equalization, as specified in
4 paragraph (2) of subdivision (b) and in paragraph (3) of
5 subdivision (b) of Section 25173.6, for the upcoming fiscal year.
6 With respect to expenditures for the purposes of paragraphs (1) and
7 (3) of subdivision (b) and paragraphs (1) and (2) of subdivision (b)
8 of Section 25173.6, the department shall also make available the
9 budgetary amounts and allocations of staff resources of the
10 department proposed for the following activities:

11 (1) The department shall identify, by permit type, the projected
12 allocations of budgets and staff resources for hazardous waste
13 facilities permits, including standardized permits, closure plans,
14 and postclosure permits.

15 (2) The department shall identify, with regard to surveillance
16 and enforcement activities, the projected allocations of budgets
17 and staff resources for the following types of regulated facilities
18 and activities:

19 (A) Hazardous waste facilities operating under a permit or
20 grant of interim status issued by the department, and generator
21 activities conducted at those facilities. This information shall be
22 reported by permit type.

23 (B) Transporters.

24 (C) Response to complaints.

25 (3) The department shall identify the projected allocations of
26 budgets and staff resources for both of the following activities:

27 (A) The registration of hazardous waste transporters.

28 (B) The operation and maintenance of the hazardous waste
29 manifest system.

30 (4) The department shall identify, with regard to site mitigation
31 and corrective action, the projected allocations of budgets and staff
32 resources for the oversight and implementation of the following
33 activities:

34 (A) Investigations and removal and remedial actions at military
35 bases.

36 (B) Voluntary investigations and removal and remedial
37 actions.

38 (C) State match and operation and maintenance costs, by site,
39 at joint state and federally funded National Priority List Sites.



1 (D) Investigation, removal and remedial actions, and operation
2 and maintenance at the Stringfellow Hazardous Waste Site.

3 (E) Investigation, removal and remedial actions, and operation
4 and maintenance at the Casmalia Hazardous Waste Site.

5 (F) Investigations and removal and remedial actions at
6 nonmilitary, responsible party lead National Priority List Sites.

7 (G) Preremedial activities under the federal Comprehensive
8 Environmental Response, Compensation, and Liability Act of
9 1980 (42 U.S.C. Sec. 9601 et seq.).

10 (H) Investigations, removal and remedial actions, and
11 operation and maintenance at state-only orphan sites.

12 (I) Investigations and removal and remedial actions at
13 nonmilitary, non-National Priority List responsible party lead
14 sites.

15 (J) Investigations, removal and remedial actions, and operation
16 and maintenance at Expedited Remedial Action Program sites
17 pursuant to Chapter 6.85 (commencing with Section 25396).

18 (K) Corrective actions at hazardous waste facilities.

19 (5) The department shall identify, with regard to the regulation
20 of hazardous waste, the projected allocation of budgets and staff
21 resources for the following activities:

22 (A) Determinations pertaining to the classification of
23 hazardous wastes.

24 (B) Determinations for variances made pursuant to Section
25 25143.

26 (C) Other determinations and responses to public inquiries
27 made by the department regarding the regulation of hazardous
28 waste and hazardous substances.

29 (6) The department shall identify projected allocations of
30 budgets and staff resources needed to do all of the following:

31 (A) Identify, remove, store, and dispose of, suspected
32 hazardous substances or hazardous materials associated with the
33 investigation of clandestine drug laboratories.

34 (B) Respond to emergencies pursuant to Section 25354.

35 (C) Create, support, maintain, and implement the railroad
36 accident prevention and immediate deployment plan developed
37 pursuant to Section 7718 of the Public Utilities Code.

38 (7) The department shall identify projected allocations of
39 budgets and staff resources for the administration and
40 implementation of the unified hazardous waste and hazardous

1 materials regulatory program established pursuant to Chapter 6.11
2 (commencing with Section 25404).

3 (8) The department shall identify the total cumulative
4 expenditures of the Regulatory Structure Update and Site
5 Mitigation Update projects since their inception, and shall identify
6 the total projected allocations of budgets and staff resources that
7 are needed to continue these projects.

8 (9) The department shall identify the total projected allocations
9 of budgets and staff resources that are necessary for all other
10 activities proposed to be conducted by the department.

11 (e) Notwithstanding this chapter, or Part 22 (commencing with
12 Section 43001) of Division 2 of the Revenue and Taxation Code,
13 for any fees, surcharges, fines, penalties, and funds which are
14 required to be deposited into the Hazardous Waste Control
15 Account or the Toxic Substances Control Account, the
16 department, with the approval of the Secretary for Environmental
17 Protection, may take any of the following actions:

18 (1) Assume responsibility for, or enter into a contract with a
19 private party or with another public agency, other than the State
20 Board of Equalization, for the collection of any fees, surcharges,
21 fines, penalties and funds described in subdivision (a) or otherwise
22 described in this chapter or Chapter 6.8 (commencing with Section
23 25300), for deposit into the Hazardous Waste Control Account or
24 the Toxic Substances Control Account.

25 (2) Administer, or by mutual agreement, contract with a private
26 party or another public agency, for the making of those
27 determinations and the performance of functions that would
28 otherwise be the responsibility of the State Board of Equalization
29 pursuant to this chapter, Chapter 6.8 (commencing with Section
30 25300), or Part 22 (commencing with Section 43001) of Division
31 2 of the Revenue and Taxation Code, if those activities and
32 functions for which the State Board of Equalization would
33 otherwise be responsible become the responsibility of the
34 department or, by mutual agreement, the contractor selected by the
35 department.

36 (f) If, pursuant to subdivision (e), the department, or a private
37 party or another public agency, pursuant to a contract with the
38 department, performs the determinations and functions that would
39 otherwise be the responsibility of the State Board of Equalization,
40 the department shall be responsible for ensuring that persons who



are subject to the fees specified in subdivision (e) have equivalent rights to public notice and comment, and procedural and substantive rights of appeal, as afforded by the procedures of the State Board of Equalization pursuant to Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code. Final responsibility for the administrative adjustment of fee rates and the administrative appeal of any fees or penalty assessments made pursuant to this section may only be assigned by the department to a public agency.

(g) If, pursuant to subdivision (e), the department, or a private party or another public agency, pursuant to a contract with the department, performs the determinations and functions that would otherwise be the responsibility of the State Board of Equalization, the department shall have equivalent authority to make collections and enforce judgments as provided to the State Board of Equalization pursuant to Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code. Unpaid amounts, including penalties and interest, shall be a perfected and enforceable state tax lien in accordance with Section 43413 of the Revenue and Taxation Code.

(h) The department, with the concurrence of the Secretary for Environmental Protection, shall determine which administrative functions should be retained by the State Board of Equalization, administered by the department, or assigned to another public agency or private party pursuant to subdivisions (e), (f), and (g).

(i) The department may adopt regulations to implement subdivisions (e) to (h), inclusive.

(j) The Director of Finance, upon request of the director, may make a loan from the General Fund to the Hazardous Waste Control Account to meet cash needs. The loan shall be subject to the repayment provisions of Section 16351 of the Government Code and the interest provisions of Section 16314 of the Government Code.

(k) The department shall establish, within the Hazardous Waste Control Account, a reserve of at least one million dollars (\$1,000,000) each year to ensure that all programs funded by the Hazardous Waste Control Account will not be adversely affected by any revenue shortfalls.

(l) When the department prepares the annual report required by Section 10359 of the Public Contract Code, the department shall,

1 in addition to providing the information required by that section,
2 include all of the following information:

3 (1) The source of funding for each contract.

4 (2) The statutory authorization, if applicable, for each contract.

5 SEC. 4. Section 25174.1 of the Health and Safety Code is
6 amended to read:

7 25174.1. (a) Each person who disposes of hazardous waste in
8 this state, or generates hazardous waste in this state and submits or
9 arranges for the submittal of that hazardous waste for disposal
10 outside of this state, shall pay a fee for the disposal of hazardous
11 waste to land, based on the type of waste placed in a disposal site,
12 in accordance with this section and Section 25174.6.

13 (b) “Disposal fee” means the fee imposed by this section.

14 (c) For purposes of this section, “dispose” and “disposal”
15 include “disposal,” as defined in Section 25113, including, but not
16 limited to, “land treatment,” as defined in subdivision (n) of
17 Section 25205.1.

18 (d) (1) Each operator of an authorized hazardous waste
19 facility, at which hazardous wastes are disposed in this state, shall
20 collect a fee from any person submitting hazardous waste for
21 disposal and shall transmit the fees to the State Board of
22 Equalization for the disposal of those wastes. The operator shall
23 be considered the taxpayer for purposes of this section and Section
24 43151 of the Revenue and Taxation Code.

25 (2) For hazardous wastes that are submitted for disposal
26 outside of this state, the generator of the waste shall transmit the
27 fees for the disposal of those wastes to the State Board of
28 Equalization, and shall be considered the taxpayer for purposes of
29 this section and Section 43151 of the Revenue and Taxation Code.

30 (3) The taxpayer is not required to collect and transmit the fee
31 for a hazardous waste if the taxpayer maintains written evidence
32 that the hazardous waste is eligible for the exemption provided by
33 Section 25174.7 or otherwise exempted from the fees pursuant to
34 this chapter. The written evidence may be provided by the taxpayer
35 or by the operator or by the person submitting the hazardous waste
36 for disposal, and shall be maintained by the taxpayer at the
37 taxpayer’s principle place of business for a minimum of three
38 years from the date that the waste is submitted for disposal.

(4) If the operator of a facility in this state submits the hazardous waste for disposal, the operator shall pay the same fee as would any other person.

(e) Notwithstanding paragraph (1) of subdivision (d), the disposal facility shall not be liable for the underpayment of any disposal fees for hazardous waste submitted for disposal by a person other than the operator, if the person submitting the hazardous waste to the disposal facility has done either of the following:

(1) Mischaracterized the hazardous waste.

(2) Misrepresented any exemptions pursuant to Section 25174.7 or any other exemption from the disposal fee provided pursuant to this chapter.

(f) (1) Any additional payment of disposal fees that are due to the State Board of Equalization as a result of a mischaracterization of a hazardous waste, a misrepresentation of an exemption, or any other error, shall be the responsibility of the person making the mischaracterization, misrepresentation, or error.

(2) In the event of a dispute regarding the responsibility for a mischaracterization, misrepresentation, or other error, for which additional payment of disposal fees are due, the State Board of Equalization shall assign responsibility for payment of the fee to that person, or those persons, it determines responsible for the mischaracterization, misrepresentation, or other error, provided that the person, or persons, has the right to a public hearing and comment, and the procedural and substantive rights of appeal pursuant to Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code.

(3) Any generator, transporter, or owner or operator of a disposal facility shall report to the department and the State Board of Equalization any information regarding any mischaracterization, misrepresentation, or error, which could affect the disposal fee, within 30 days of that information first becoming known to that person.

(g) Except as required under Section 25174.8, the State Board of Equalization shall deposit the fees collected pursuant to this section in the Hazardous Waste Control Account, for expenditure by the department, upon appropriation by the Legislature.

(h) The operator of the facility that disposes of the hazardous waste to land in this state shall provide to every person who

1 submits hazardous waste for disposal at the facility a statement
2 showing the amount of hazardous waste fees payable pursuant to
3 this section.

4 (i) Any person who disposes of hazardous waste at any site that
5 is not an authorized hazardous waste facility shall be responsible
6 for payment of fees pursuant to this section and shall be the
7 taxpayer for purposes of Section 43151 of the Revenue and
8 Taxation Code.

9 (j) Any administrative savings that are derived by the state as
10 a result of changes made to this section during the 1995–96
11 Regular Session of the Legislature shall be made available to the
12 department and reflected in the annual Budget Act.

13 ~~SEC. 4.—~~

14 SEC. 5. Section 25174.2 of the Health and Safety Code is
15 amended to read:

16 25174.2. (a) The base rate for the hazardous wastes specified
17 in Section 25174.6 that are disposed of or submitted for disposal
18 in the state or outside of the state is eighty-five dollars and
19 twenty-four cents (\$85.24) per ton for disposal of hazardous waste
20 to land.

21 (b) The base rate specified in subdivision (a) is the base rate for
22 the period of January 1, 1997, to December 31, 1997. Beginning
23 with calendar year 1998, and for each year thereafter, the State
24 Board of Equalization shall adjust the base rate annually to reflect
25 increases or decreases in the cost of living during the prior fiscal
26 year, as measured by the Consumer Price Index issued by the
27 Department of Industrial Relations or a successor agency.

28 SEC. 6. Section 25174.6 of the Health and Safety Code is
29 amended to read:

30 25174.6. (a) The fee provided pursuant to Section 25174.1
31 shall be determined as a percentage of the base rate, as adjusted by
32 the State Board of Equalization, pursuant to Section 25174.2, or
33 as otherwise provided by this section. Except as provided under
34 subdivision (b), the procedure for determining these fees is as
35 follows:

36 (1) The following fees shall be paid for each ton, or fraction
37 thereof for up to the first 5,000 tons of the following hazardous
38 wastes disposed of, or submitted for disposal, in the state at each
39 specific offsite facility by each producer, or at each specific onsite
40 facility, per month, if the hazardous wastes are not otherwise

subject to the fee specified in paragraph (3) or (4) and are not otherwise exempt from the fees imposed pursuant to this article:

(A) For non-RCRA hazardous waste, excluding asbestos, generated in a remedial action, a removal action, or a corrective action taken pursuant to this chapter, Chapter 6.7 (commencing with Section 25280), Chapter 6.75 (commencing with Section 25299.10), or Chapter 6.8 (commencing with Section 25300), or generated in any other required or voluntary cleanup, removal, or remediation of a hazardous substance or non-RCRA hazardous waste, a fee of five dollars and seventy-two cents (\$5.72) per ton.

(B) For all other non-RCRA hazardous waste, a fee of 16.31 percent of the base rate for each ton.

(2) Thirteen percent of the base rate for each ton, or fraction thereof, shall be paid for up to the first 5,000 tons of hazardous waste disposed of, or submitted for disposal, in the state, at each specific offsite facility by each producer, or at each specific onsite facility, per month, which result from the extraction, beneficiation, and processing of ores and minerals, including phosphate rock and the overburden from the mining of uranium ore and which is not otherwise subject to the fee specified in paragraph (3) or (4).

(3) Two hundred percent of the base rate shall be paid for each ton, or fraction thereof, of extremely hazardous waste disposed of, or submitted for disposal, in the state.

(4) Two hundred percent of the base rate shall be paid for each ton, or fraction thereof, of restricted hazardous wastes listed in subdivision (b) of Section 25122.7 disposed of, or submitted for disposal, in the state.

(5) Forty and four-tenths percent of the base rate shall be paid for each ton, or fraction thereof, of hazardous waste disposed of, or submitted for disposal, in the state, which is not otherwise subject to the fees specified in paragraph (1), (2), (3), (4), or (6).

(6) Five percent of the base rate shall be paid for each ton, or fraction thereof, of hazardous waste disposed of, or submitted for disposal, in the state, that is a solid hazardous waste residue resulting from incineration or dechlorination. No fees shall be imposed pursuant to this paragraph on a solid hazardous waste residue resulting from incineration or dechlorination which is disposed of, or submitted for disposal, outside of the state.

(7) Fifty percent of the fee that would otherwise be paid for each ton, or fraction thereof, of hazardous waste disposed of in the

1 state, that is a solid hazardous waste residue resulting from
2 treatment of a treatable waste by means of a designated treatment
3 technology, as defined in Section 25179.2. No fees shall be
4 imposed pursuant to this paragraph on a solid hazardous waste
5 residue resulting from treatment of a treatable waste by means of
6 a designated treatment technology that is not a hazardous waste or
7 which is disposed of, or submitted for disposal, outside of the state.

8 (b) The fee for wastes submitted for disposal outside of the state
9 shall be equal to 80 percent of the fee that would have been charged
10 under subdivision (a) if the waste had been submitted for disposal
11 in the state, subject to all of the following:

12 (1) The 5,000 ton cap that is specified in paragraphs (1) and (2)
13 of subdivision (a) shall apply to the amount of waste submitted for
14 disposal in each state outside of this state.

15 (2) The classification of waste type for purposes of determining
16 the fee, as required under subdivision (a), shall be the classification
17 applicable to the waste as it leaves this state for submittal for
18 disposal outside of the state.

19 (c) The amount of fees payable to the State Board of
20 Equalization pursuant to this section shall be calculated using the
21 total wet weight, measured in tons or fractions thereof, of the
22 hazardous waste in the form in which the hazardous waste existed
23 at the time of disposal, submission for disposal, or application to
24 land using a land disposal method, as defined in Section 66260.10
25 of Title 22 of the California Code of Regulations, if all of the
26 following apply:

27 (1) The weight of any nonhazardous reagents or treatment
28 additives added to the waste, after it has been submitted for
29 disposal, for purposes of rendering the waste less hazardous, shall
30 not be included in those calculations.

31 (2) Except as provided by paragraph (7) of subdivision (a), any
32 RCRA hazardous waste received, treated, and disposed at the
33 disposal facility shall be subject to a disposal fee pursuant to this
34 section as if it were a non-RCRA hazardous waste, if the waste, due
35 to treatment, is no longer a RCRA hazardous waste at the time of
36 disposal.

37 (d) All fees imposed by this section shall be paid in accordance
38 with Part 22 (commencing with Section 43001) of Division 2 of
39 the Revenue and Taxation Code.

SEC. 7. Section 25174.8 is added to the Health and Safety Code, to read:

25174.8. The State Board of Equalization shall deposit all amounts paid under subdivision (b) of Section ~~24174.6~~ 25174.6 into the Hazardous Waste Control Account. The moneys deposited in the account pursuant to this section shall be available for expenditure by the department, upon appropriation by the Legislature, solely for the purpose of reimbursing state and local agencies for the costs incurred in providing regulatory oversight and carrying out other duties relating to hazardous waste that is ultimately disposed of outside of this state.

SEC. 8. Section 25174.10 is added to the Health and Safety Code, to read:

25174.10. (a) On or before January 1, 2004, the department shall establish an Electronic Waste Management Grant, Loan, and Loan Guarantee Program, under which local governments and nonprofit organizations may seek financial assistance for funding innovative methods of handling, reusing, remanufacturing, and recycling discarded electronics that are determined by the department to be hazardous. The department may provide this financial assistance to local governments and nonprofit organizations in the form of reimbursement for costs incurred in implementing these innovative methods or by providing advance funding towards implementing these innovative methods.

(b) (1) The Electronic Waste Management Grant, Loan, and Loan Guarantee Account is hereby created in the General Fund and the funds in the account may be expended by the department, upon appropriation by the Legislature in the annual Budget Act.

(2) The following funds shall be deposited into the account:

(A) Money transferred by the Legislature from the Hazardous Waste Control Account, as provided in paragraph (4).

(B) Notwithstanding Section 16475 of the Government Code, any interest earned on the money in the account.

(3) The department may expend the money in the Electronic Waste Management Grant, Loan, and Loan Guarantee Account for both of the following purposes:

(A) To pay the costs of implementing this section. These costs shall not exceed 5 percent of the funds available for the Electronic Waste Management Grant, Loan, and Loan Guarantee Program.

1 (B) To make grants and issue loans and loan guarantees
2 pursuant to this section.

3 (4) Upon authorization by the Legislature in the annual Budget
4 Act, moneys transferred into the account shall not exceed the
5 amount collected annually under subdivision (b) of Section
6 ~~24174.6~~. 25174.6.

7 (5) Notwithstanding any other provision of law, the Electronic
8 Waste Management Grant, Loan, and Loan Guarantee Account
9 shall be funded from the Hazardous Waste Control Account.

10 (c) The department shall implement the Electronic Waste
11 Management Grant, Loan, and Loan Guarantee Program to
12 provide grants and issue loans and loan guarantees, to local
13 governments and nonprofit organizations.

14 (d) In making grants and issuing loans and loan guarantees
15 from the Electronic Waste Management Grant, Loan, and Loan
16 Guarantee Account, the department shall give priority to funding
17 the following programs:

18 (1) To fund household hazardous waste programs and other
19 efforts to manage electronic scrap.

20 (2) To administer the Electronic Waste Management Grant
21 Program established by the department under this section.

22 (e) On or before June 30, 2003, the department shall establish,
23 and promulgate regulations for the administration of, an
24 Electronic Waste Management Grant, Loan, and Loan Guarantee
25 Program. These regulations shall include, but need not be limited
26 to, all of the following:

27 (1) Competitive criteria that will reward innovative and
28 successful efforts to manage electronic scrap.

29 (2) An expeditious and efficient application and application
30 review process to assure that grants are awarded as quickly as
31 possible.

32 (3) A methodology for determining amounts of grants to be
33 awarded. This methodology should ensure that all California
34 communities are encouraged to compete for these grants and are
35 allowed an opportunity to compete.

36 (4) A process for ensuring that amounts appropriated are
37 awarded fully in the year appropriated.

38 SEC. 9. Section 40004 is added to the Public Resources Code,
39 to read:

40 40004. (a) Zero waste is the goal for the State of California.

(b) The purpose of this goal is to promote a zero-waste California where the public, industry, and government strive to reduce, reuse, or recycle discarded materials back into nature or the marketplace in a manner that protects human health and the environment and honors the principles of this division.

(c) This goal is a statement of principle and public policy and shall not be construed as a requirement or mandate on any entity subject to this division.

(d) This section shall not be construed to provide any unique enforcement authority or regulatory oversight for the board, local enforcement agencies, or any other entity having enforcement authority or regulatory oversight responsibilities under this division.

~~SEC. 10. Section 40005 is added to the Public Resources Code, to read:~~

~~40005. The Legislature hereby finds and declares that it is the intent of the Legislature to develop a framework for local jurisdictions and companies that is safe for the environment and for the public health and safety and conducive to developing conversion technologies in California that manage post-recycled materials otherwise destined for landfills. It is the further intent of the Legislature to establish a program for the research, demonstration, evaluation, and promotion of new and emerging technologies that can convert post-recycled materials otherwise destined for landfills into new sources of energy and alternative fuels that are safe for the environment and for the public health and safety.~~

~~SEC. 11. Section 40107 is added to the Public Resources Code, to read:~~

~~40107. “Bioreactor landfill” means a municipal solid waste landfill unit where liquids or air, in addition to leachate and gas condensate, is injected in a controlled manner into the waste mass to accelerate or enhance the biostabilization of the waste.~~

~~SEC. 12. Section 40117 is added to the Public Resources Code, to read:~~

~~40117. “Conversion” means the processing, through noncombustion thermal means, chemical means, or biological means, other than composting, of residual solid waste from which recyclable materials have been substantially diverted or removed, or both, to produce electricity, alternative fuels, chemicals, or~~

1 other products that meet quality standards for use in the
2 marketplace.

3 ~~SEC. 13. Section 40194 of the Public Resources Code is~~
4 ~~amended to read:~~

5 ~~40194. “Solid waste facility” includes a solid waste transfer~~
6 ~~or processing station, a composting facility, a conversion~~
7 ~~technology facility, a transformation facility, and a disposal~~
8 ~~facility.~~

9 ~~SEC. 14. Section 40201 of the Public Resources Code is~~
10 ~~amended to read:~~

11 ~~40201. “Transformation” means the incineration of solid~~
12 ~~waste. “Transformation” does not include composting,~~
13 ~~conversion technology, or biomass conversion.~~

14 ~~SEC. 15.—~~

15 *SEC. 10.* Section 40507 of the Public Resources Code is
16 amended to read:

17 40507. (a) On or before March 1 of each year, the board shall
18 file an annual report with the Legislature highlighting significant
19 programs or actions undertaken by the board to implement
20 programs pursuant to this division during the prior calendar year.
21 The report shall include, but is not limited to, the information
22 described in subdivision (b).

23 (b) Commencing January 1, 1997, the board shall file annual
24 progress reports with the Legislature covering the activities and
25 actions undertaken by the board in the prior fiscal year. The board
26 shall prepare the progress reports throughout the calendar year, as
27 determined by the board, on the following programs:

- 28 (1) The local enforcement agency program.
- 29 (2) The research and development program.
- 30 (3) The public education program.
- 31 (4) The market development program.
- 32 (5) The used oil program.
- 33 (6) The planning and local assistance program.
- 34 (7) The site cleanup program.

35 (c) The progress report shall specifically include, but is not
36 limited to, all of the following information:

- 37 (1) Pursuant to paragraph (1) of subdivision (b), the status of
38 the certification and evaluation of local enforcement agencies
39 pursuant to Chapter 2 (commencing with Section 43200) of Part
40 4.

(2) Pursuant to paragraph (2) of subdivision (b), all of the following information:

(A) The results of the research and development programs established pursuant to Chapter 13 (commencing with Section 42650) of Part 3.

(B) A report on information and activities associated with the establishment of the Plastics Recycling Information Clearinghouse, pursuant to Section 42520.

(C) *A report on the progress in implementing the monitoring and control program for the subsurface migration of landfill gas established pursuant to Section 43030, including recommendations, as needed, to improve the program.*

(D) A report on the comparative costs and benefits of the recycling or conversion processes for waste tires funded pursuant to Chapter 17 (commencing with Section 42860) of Part 3.

(3) Pursuant to paragraph (3) of subdivision (b), all of the following information:

(A) A review of actions taken by the board to educate and inform individuals and public and private sector entities who generate solid waste on the importance of source reduction, recycling, and composting of solid waste, and recommendations for administrative or legislative actions which will inform and educate these parties.

(B) A report on the effectiveness of the public information program required to be implemented pursuant to Chapter 12 (commencing with Section 42600) of Part 3, including recommendations on administrative and legislative changes to improve the program.

(C) A report on the status and effectiveness of school district source reduction and recycling programs implemented pursuant to Chapter 12.5 (commencing with Section 42620) of Part 3, including recommendations on administrative and legislative changes to improve the program's effectiveness.

(D) A report on the effectiveness of the integrated waste management educational program and teacher training plan implemented pursuant to Section 42603, including recommendations on administrative and legislative changes which will improve the program.

(E) A summary of available and wanted materials, a profile of the participants, and the amount of waste diverted from disposal

1 sites as a result of the California Materials Exchange Program
2 established pursuant to subdivision (a) of Section 42600.

3 (4) Pursuant to paragraph (4) of subdivision (b), all of the
4 following information:

5 (A) A review of market development strategies undertaken by
6 the board pursuant to this division to ensure that markets exist for
7 materials diverted from solid waste facilities, including
8 recommendations for administrative and legislative actions which
9 will promote expansion of those markets. The recommendations
10 shall include, but not be limited to, all of the following:

11 (i) Recommendations for actions to develop more direct
12 liaisons with private manufacturing industries in the state to
13 promote increased utilization of recycled feedstock in
14 manufacturing processes.

15 (ii) Recommendations for actions which can be taken to assist
16 local governments in the inclusion of recycling activities in county
17 overall economic development plans.

18 (iii) Recommendations for actions to utilize available financial
19 resources for expansion of recycling industry capacity.

20 (iv) Recommendations to improve state, local, and private
21 industry product and material procurement practices.

22 (B) Development and implementation of a program to assist
23 local agencies in the identification of markets for materials that are
24 diverted from disposal facilities through source reduction,
25 recycling, and composting pursuant to Section 40913.

26 (C) A report on the Recycling Market Development Zone Loan
27 Program provided for in subdivision (c) of Section 42010,
28 pursuant to subdivision (f) of Section 42010.

29 (D) A report on implementation of the Compost Market
30 Program pursuant to Chapter 5 (commencing with Section 42230)
31 of Part 3.

32 (E) A report on the progress in developing and implementing
33 the comprehensive Market Development Plan, pursuant to Article
34 2 of Chapter 1 (commencing with Section 42005) of Part 3.

35 (F) The number of retreaded tires purchased by the Department
36 of General Services during the prior fiscal year pursuant to Section
37 42414.

38 (G) The results of the study performed in consultation with the
39 Department of General Services pursuant to Section 42416 to
40 determine if tire retreads, procured by the department, have met all

1 quality and performance criteria of a new tire, including any
2 recommendations to expand, revise, or curtail the program.

3 (H) The number of recycled lead-acid batteries purchased
4 during the prior fiscal year by the Department of General Services
5 pursuant to Section 42443.

6 (I) A list of established price preferences for recycled paper
7 products for the prior fiscal year pursuant to paragraph (1) of
8 subdivision (c) of the Public Contract Code.

9 (J) A report on the implementation of the white office paper
10 recovery program pursuant to Chapter 10 (commencing with
11 Section 42560) of Part 3.

12 (K) A report on the measurable effects of the board's market
13 development activities on both a regional and statewide basis.

14 (L) A list of all state agencies that are not complying with the
15 requirements of the State Agency Buy Recycled Campaign.

16 (5) Pursuant to paragraph (5) of subdivision (b), both of the
17 following information:

18 (A) A report on the annual audit of the used oil recycling
19 program established pursuant to Chapter 4 (commencing with
20 Section 48600) of Part 7.

21 (B) A summary of industrial and lubricating oil sales and
22 recycling rates, the results of programs funded pursuant to Chapter
23 4 (commencing with Section 48600) of Part 7, recommendations,
24 if any, for statutory changes to the program, including changes in
25 the amounts of the payment required by Section 48650 and the
26 recycling incentive, and plans for present and future programs to
27 be conducted over the next two years.

28 (6) Pursuant to paragraph (6) of subdivision (b), all of the
29 following information:

30 (A) The development by the board of the model countywide or
31 regional siting element and model countywide or regional agency
32 integrated waste management plan pursuant to Section 40912,
33 including its effectiveness in assisting local agencies.

34 (B) The adoption by the board of a program to provide
35 assistance to cities, counties, or regional agencies in the
36 development and implementation of source reduction programs
37 pursuant to subdivision (b) of Section 40912.

38 (C) The development by the board of model programs and
39 materials to assist rural counties and cities in preparing city and

1 county source reduction and recycling elements pursuant to
2 Section 40914.

3 (D) A report on the number of tires that are recycled or
4 otherwise diverted from disposal in landfills or stockpiles.

5 (E) A report on the development and implementation of
6 recommendations, with proposed implementing regulations, for
7 providing technical assistance to counties and cities that meet
8 criteria specified in Section 41782, so that those counties and cities
9 will be able to meet the objectives of this division. The
10 recommendations shall, among other things, address both of the
11 following matters:

12 (i) Assistance in developing methods of raising revenue at the
13 local level to fund rural integrated waste management programs.

14 (ii) Assistance in developing alternative methods of source
15 reduction, recycling, and composting of solid waste suitable for
16 rural local governments.

17 (F) A report on the status and implementation of the “Buy
18 Recycled” program established pursuant to subdivision (d) of
19 Section 42600, including the waste collection and recycling
20 programs established pursuant to Sections 12164.5 and 12165 of
21 the Public Contract Code.

22 (7) Pursuant to paragraph (7) of subdivision (b), a description
23 of sites cleaned up under the Solid Waste Disposal and Codisposal
24 Site Cleanup Program established pursuant to Article 2.5
25 (commencing with Section 48020) of Chapter 2 of Part 7, a
26 description of remaining sites where there is no responsible party
27 or the responsible party is unable or unwilling to pay for cleanup,
28 and recommendations for any needed legislative changes.

29 (8) (A) A discussion of the board’s activities relating to efforts
30 to meet a zero waste goal for the state. This discussion shall include
31 all measurable indicators of program success.

32 (B) A report on landfill demand. This report shall include the
33 amount of California municipal solid waste material being
34 disposed of in landfills in the state and being sent out of state for
35 disposal in landfills.

36 (9) Commencing with the 2004 progress report, and once every
37 five years thereafter, the progress report shall include all of the
38 following:

39 (A) A report on the best practices in waste management,
40 including, but not limited to, operating landfills and alternatives



1 ~~to landfills. These practices may include, but need not be limited~~
2 ~~to, conversion technologies, biomass conversion, and composting,~~
3 ~~and all feasible and practical technologies available in municipal~~
4 ~~solid waste management. to landfills.~~

5 (B) A discussion of the board's efforts to research and identify
6 best management practices and to share this information with
7 landfill operators, local governments, local enforcement agencies,
8 and others. This discussion shall clearly identify the amount of
9 resources dedicated to this purpose and discuss strategies,
10 successes, and challenges in this area.

11 ~~(C) The status of the conversion industry and the board's efforts~~
12 ~~to increase diversion through conversion.~~

13 ~~(10) A current list of permitted conversion facilities.~~

14 ~~SEC. 16. Section 40512 is added to the Public Resources~~
15 ~~Code, to read:~~

16 ~~40512. The board shall establish a program for the research,~~
17 ~~demonstration, evaluation, and promotion of new and emerging~~
18 ~~technologies that can convert post-recycled materials that are~~
19 ~~otherwise destined for landfills into new sources of energy and~~
20 ~~alternative fuels. Program elements shall include all of the~~
21 ~~following:~~

22 ~~(a) Evaluation of new and emerging technologies based on~~
23 ~~criteria established by the board.~~

24 ~~(b) Research on the compatibility of municipal residuals with~~
25 ~~different conversion technologies.~~

26 ~~(c) Research on environmental and economic benefits and~~
27 ~~costs of conversion technologies compared with landfill disposal,~~
28 ~~recycling, and composting.~~

29 ~~(d) Development of a grant program for small-scale conversion~~
30 ~~technology projects.~~

31 ~~(e) Educational symposia and workshops.~~

32 ~~SEC. 17. Section 40513 is added to the Public Resources~~
33 ~~Code, to read:~~

34 ~~40513. The board shall establish a program for the research,~~
35 ~~demonstration, evaluation, and promotion of technologies that are~~
36 ~~determined to be safe for the environment and the public health~~
37 ~~and safety and enhance the environmental and energy recovery~~
38 ~~performance of wastes that are disposed of in landfills and cannot~~
39 ~~otherwise be diverted. These technologies may include, but need~~
40 ~~not be limited to, landfill gas-to-energy projects, bioreactor~~

~~landfills, and other technologies. Program elements shall include all of the following:~~

~~(a) Evaluation of new and emerging technologies for solid waste landfills based on criteria established by the board.~~

~~(b) Development of a grant or loan program for landfill gas-to-energy and bioreactor landfill projects.~~

~~(c) Participation in a Landfill Gas to Energy Task Force with the United States Environmental Protection Agency, the State Energy Resource Conservation and Development Commission, the State Air Resources Board, and the State Water Resources Control Board.~~

~~SEC. 18. Section 41781.4 is added to the Public Resources Code, to read:~~

~~41781.4. The board may adopt regulations, pursuant to Section 40502, to provide guidelines on the most beneficial use of green waste materials. These regulations may include, but are not limited to, including allowing the use of appropriate amounts of green waste materials that are used for conversion or as alternative daily cover, or both, to be considered as being diverted from landfill disposal or transformation for purposes of Section 41780.~~

~~SEC. 19. Section 41783.2 is added to the Public Resources Code, to read:~~

~~41783.2. (a) Any city, county, or regional agency source reduction and recycling element that is submitted to the board after January 1, 2003, shall consider solid waste that is subject to conversion as being diverted from landfill disposal or transformation for purposes of Section 41780.~~

~~(b) Notwithstanding subdivision (a), the 50 percent diversion requirement specified in paragraph (2) of subdivision (a) of Section 41780 may include not more than 10 percent through conversion, if all of the following conditions are met:~~

~~(1) The jurisdiction continues to implement programs in the jurisdiction's source reduction and recycling element or modified annual report.~~

~~(2) The conversion facility complements existing recycling or diversion infrastructure.~~

~~(3) The conversion facility maintains or enhances environmental benefits.~~

1 ~~(4) The conversion facility maintains or enhances the~~
2 ~~economic sustainability of the integrated waste management~~
3 ~~system.~~

4 ~~SEC. 20. Section 44016 of the Public Resources Code is~~
5 ~~amended to read:~~

6 ~~44016. (a) The enforcement agency may, in accordance with~~
7 ~~Chapter 4 (commencing with Section 44300), suspend or revoke~~
8 ~~the permit of any solid waste facility designed to convert solid~~
9 ~~waste from offsite sources into energy or synthetic fuels if the~~
10 ~~facility utilizes recyclable materials for conversion to energy and~~
11 ~~if the local agency in whose jurisdiction the materials are collected~~
12 ~~requires, by ordinance, contract, or otherwise, that recyclable~~
13 ~~materials within the jurisdiction of that local agency be converted~~
14 ~~into energy at that facility. This subdivision does not otherwise~~
15 ~~restrict the ability of a solid waste facility to purchase, collect,~~
16 ~~transport, or process recyclable materials.~~

17 ~~(b) The board may not concur in the issuance of a solid waste~~
18 ~~facility permit for a conversion technology facility, unless the~~
19 ~~board determines that the facility meets all applicable~~
20 ~~environmental standards.~~

21 ~~(c) As used in this section, the following terms have the~~
22 ~~following meanings:~~

23 ~~(1) "Local agency" means any county, city, or district~~
24 ~~authorized to collect, dispose, or collect and dispose of solid waste,~~
25 ~~or any joint powers authority formed pursuant to Chapter 5~~
26 ~~(commencing with Section 6500) of Division 7 of Title 1 of the~~
27 ~~Government Code that is authorized to construct and operate a~~
28 ~~facility for the conversion of solid waste into energy, synthetic~~
29 ~~fuel, or reusable materials.~~

30 ~~(2) "Recyclable materials" means discarded paper, glass,~~
31 ~~cardboard, plastic, ferrous metal, or aluminum that has been~~
32 ~~segregated from other solid waste materials for the purpose of~~
33 ~~reuse or recycling, except that recyclable materials do not include~~
34 ~~materials that a local agency, having jurisdiction over the locations~~
35 ~~where these materials exist, determines could be potentially~~
36 ~~harmful to the public health, or materials that create a public~~
37 ~~nuisance, as defined in Section 3480 of the Civil Code.~~

38 ~~SEC. 21.—~~

39 ~~SEC. 11. Section 48000 of the Public Resources Code is~~
40 ~~amended to read:~~

1 48000. (a) Each operator of a disposal facility shall pay a fee
2 quarterly to the State Board of Equalization that is based on the
3 amount, by weight or volumetric equivalent, as determined by the
4 board, of all solid waste disposed of at each disposal site.

5 (b) (1) The fee for solid waste disposed of shall be one dollar
6 and thirty-four cents (\$1.34) per ton. Commencing with the
7 1995–96 fiscal year, the amount of the fee shall be established by
8 the board at an amount that is sufficient to generate revenues
9 equivalent to the approved budget for that fiscal year, including a
10 prudent reserve, but shall not exceed one dollar and forty cents
11 (\$1.40) per ton. Commencing with the 2004–05 fiscal year, the
12 board may adjust the fee once every three years to reflect increases
13 and decreases in the Consumer Price Index. A change in the fee for
14 purposes of reflecting changes in the Consumer Price Index shall
15 take effect six months or more after the date of approval by the
16 board.

17 (2) The board shall notify the Joint Legislative Budget
18 Committee, the Department of Finance, and the Legislative
19 Analyst at least 90 days prior to a board hearing to consider a
20 change in the fee imposed pursuant to paragraph (1).

21 (c) The board shall notify the State Board of Equalization on
22 the first day of the period in which the rate shall take effect of any
23 rate change adopted pursuant to this section.

24 (d) Each operator of a transfer station shall pay a fee quarterly
25 to the State Board of Equalization that is based on the amount, by
26 weight or volumetric equivalent, as determined by the board, of all
27 solid waste processed at a transfer station for disposal at an
28 out-of-state disposal site. The fee shall be 80 percent of the fee that
29 would have been charged under subdivision (b) if the solid waste
30 had been disposed of in this state.

31 (e) The Legislature hereby finds and declares that the fees
32 imposed pursuant to subdivision (d) upon solid waste that is
33 ultimately disposed of out of state is imposed solely to reimburse
34 state and local agencies for their costs in regulating that waste and
35 the amount of the fee is proportional to the costs imposed upon the
36 state and local agencies for that regulation.

37 ~~SEC. 22.~~

38 *SEC. 12.* Section 48001.5 is added to the Public Resources
39 Code, to read:

1 48001.5. The State Board of Equalization shall deposit all
2 amounts paid under subdivision (d) of Section 48000 in the
3 Integrated Waste Management Account. Upon appropriation by
4 the Legislature, moneys in the account shall be available for
5 expenditure by the board only for the purpose of reimbursing local
6 and state agencies; for the costs incurred in providing regulatory
7 oversight and carrying out other duties relating to that waste that
8 is ultimately disposed of at an out-of-state disposal site.

9 ~~SEC. 23.—~~

10 *SEC. 13.* Article 2.3 (commencing with Section 48010) is
11 added to Chapter 2 of Part 7 of Division 3 of the Public Resources
12 Code, to read:

13
14 Article 2.3. Diversion Reward Grant, Loan, and Loan
15 Guarantee Program
16

17 48010. (a) The Legislature hereby finds and declares that
18 innovative methods of increasing diversion should be encouraged.
19 Frequently, financial constraints hinder development and
20 implementation of these efforts.

21 (b) On or before January 1, 2004, the board shall establish the
22 Diversion Reward Grant, Loan, and Loan Guarantee Program
23 under which local governments and nonprofit organizations may
24 seek financial assistance for funding innovative methods of
25 increasing diversion. The board may provide this financial
26 assistance to local governments and nonprofit organizations in the
27 form of reimbursement for costs incurred in implementing those
28 innovative methods or to provide or advance funding towards
29 implementing these innovative methods.

30 (c) (1) The Diversion Reward Grant, Loan, and Loan
31 Guarantee Account is hereby created in the General Fund and
32 funds from the account may be expended by the board, upon
33 appropriation by the Legislature in the annual Budget Act, for the
34 purposes of this article.

35 (2) The following funds shall be deposited into the account:

36 (A) Money appropriated by the Legislature from the Integrated
37 Waste Management Fund.

38 (B) Notwithstanding Section 16475 of the Government Code,
39 any interest earned on the money in the account.

(3) The board may expend the money in the Diversion Reward Grant, Loan, and Loan Guarantee Account for both of the following purposes:

(A) To pay the costs of implementing this article. These costs shall not exceed 5 percent of the funds available for the Diversion Reward Grant, Loan, and Loan Guarantee Program.

(B) To make payments authorized by this article.

(4) Upon authorization by the Legislature in the annual Budget Act, moneys transferred into the account shall not exceed amounts collected annually under subdivision (d) of Section 48000.

(5) Notwithstanding any other provision of law, the Diversion Reward Grant, Loan, and Loan Guarantee Account shall be funded from the Integrated Waste Management Fund.

48011. (a) The Diversion Reward Grant, Loan, and Loan Guarantee Program shall be established to make grants and issue loans and loan guarantees for the purposes described in this article.

(b) The board shall give priority to issuing grants for, and providing loans and loan guarantees to, the following programs:

(1) Local governments that have established, or will use, these grants and loans and loan guarantees to establish innovative and cost-effective programs, other than conversion, to increase diversion.

~~(2) Local governments, for increased diversion efforts involving conversion.~~

~~(3)–~~

(2) Nonprofit organizations, that will use these grants and loans and loan guarantees to establish innovative and cost-effective programs, other than conversion, to assist local governments increase diversion.

(4) Nonprofit organizations, for increased diversion efforts involving conversion.

48012. ~~(a)~~ On or before December 31, 2003, the board shall adopt regulations for the administration of the Diversion Reward Grant, Loan, and Loan Guarantee Program. These regulations shall include, but are not limited to including, all of the following:

~~(1)–~~

(a) Criteria for identification and prioritization of innovative and successful methods of increasing diversion from landfill disposal.

~~(2)–~~

1 (b) Competitive criteria to evaluate applications and fund
2 grants, loans, and loan guarantees under this article.

3 ~~(3)~~

4 (c) An expeditious and efficient application and administrative
5 process to ensure that moneys are awarded as quickly as possible
6 with no unnecessary constraints or delays.

7 ~~(4)~~

8 (d) A methodology for determining amounts of moneys to be
9 made available and awarded as grants, loans, and loan guarantees.

10 ~~(5)~~

11 (e) A methodology whereby applicants can determine costs
12 incurred for applying for moneys awarded under this article and
13 to utilize moneys awarded under this article to pay those costs.

14 48013. (a) Each year, as part of the annual report required to
15 be submitted pursuant to Section 40507, the board shall report to
16 the Governor and the Legislature on the actions it has taken under
17 the Diversion Reward Grant, Loan, and Loan Guarantee Program.

18 (b) On or before January 1, 2006, the board shall review the
19 Diversion Reward Grant, Loan, and Loan Guarantee Program and
20 report to the Governor and the Legislature on its costs and
21 effectiveness in increasing diversion through moneys made
22 available under the program. The report shall include all of the
23 following information:

24 (1) The amount of and number of grants provided under the
25 program.

26 (2) The amount of and number of loans provided under the
27 program.

28 (3) The amount of and number of loan guarantees provided
29 under the program.

30 (4) A description of the types of specific efforts funded by the
31 program.

32 (5) A discussion of the effectiveness of those specific efforts.

33 48014. It is the intent of the Legislature that amounts
34 appropriated under this article be awarded in the year
35 appropriated.

36 ~~SEC. 24.~~

37 *SEC. 14.* Section 43151 of the Revenue and Taxation Code is
38 amended to read:

39 43151. (a) The fee imposed pursuant to Section 25174.1 of
40 the Health and Safety Code which is a tax collected and

1 administered under Section 43051 is due and payable to the board
2 monthly on or before the last day of the third calendar month
3 following the end of the calendar month for which the fee is due.
4 Each taxpayer shall, on or before the last day of the third calendar
5 month following the end of the calendar month for which the fee
6 is due, make out a tax return for the calendar month, in the form
7 prescribed by the board in accordance with subdivision (c). The
8 taxpayer shall deliver the return, together with a remittance of the
9 amount of fee due, to the office of the board on or before the last
10 day of the third calendar month following the end of the calendar
11 month for which the fee is due.

12 (b) With the approval of the board, a taxpayer who has more
13 than one facility subject to the taxes collected and administered
14 under this chapter, may file a combined tax return covering
15 operations at more than one, or all, of those facilities.

16 (c) The form required to be submitted by the taxpayer pursuant
17 to this section shall show, for the taxpayer and for each person from
18 whom the taxpayer accepted hazardous waste for disposal, all of
19 the following:

20 (1) The total amount of hazardous waste subject to the tax and
21 the amount of the tax for the period covered by the return.

22 (2) The amount of hazardous waste disposed during the tax
23 period that is in each of the fee categories described in Section
24 25174.6 of the Health and Safety Code, and the amount of disposal
25 fees paid for each of those categories.

26 (3) The amount of hazardous waste received for disposal by the
27 taxpayer's facility or facilities that is exempt from the payment of
28 disposal fees pursuant to Section 25174.7 of the Health and Safety
29 Code, including a copy of any written documentation provided for
30 any shipment or shipments of hazardous waste received by a
31 facility.

32 (4) The amount of RCRA hazardous waste which is treated by
33 the taxpayer so that the waste is considered to be non-RCRA
34 hazardous waste for purposes of the disposal fee, pursuant to
35 paragraph (2) of subdivision (c) of Section 25174.6 of the Health
36 and Safety Code.

37 (d) (1) Each taxpayer shall maintain records documenting all
38 of the following information for each person who has submitted
39 hazardous waste for disposal by the taxpayer during each calendar



month and shall make those records available for review and inspection at the request of the board or the department:

(A) The tonnage of hazardous waste submitted for disposal.

(B) The type of hazardous waste disposed as specified by Section 25174.6 of the Health and Safety Code, including both of the following:

(i) Any characterization of the hazardous waste made by the person submitting the hazardous waste for disposal.

(ii) Any other documentation which the taxpayer maintains regarding the type of hazardous waste disposed to land.

(C) Any representation made by the person submitting the hazardous waste regarding any exemptions that may be applicable to the payment of disposal fees.

(D) For any RCRA hazardous waste which is treated by the taxpayer so that the waste is considered to be non-RCRA hazardous waste for purposes of the disposal fee, pursuant to paragraph (2) of subdivision (c) of Section 25174.6 of the Health and Safety Code, all of the following information:

(i) The tonnage and type of hazardous waste.

(ii) The method or methods used to treat the hazardous waste.

(iii) Operating records documenting the treatment activity.

(iv) Representative and statistical waste sampling and analysis data demonstrating that the waste is no longer RCRA hazardous waste at the time of disposal.

(2) If the hazardous wastes submitted for disposal were accompanied by a manifest, the information specified in paragraph (1) shall be maintained by manifest number for each calendar month.

~~SEC. 25. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.~~

SEC. 15. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section

- 1 *17556 of the Government Code, or changes the definition of a*
- 2 *crime within the meaning of Section 6 of Article XIII B of the*
- 3 *California Constitution.*

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